

PLANNING COMMISSION MINUTES

January 16, 2002

CALL TO ORDER:

Chairman Vlad Voytilla called the meeting to order at 7:00 p.m. in the Beaverton City Hall Council Chambers at 4755 SW Griffith Drive.

ROLL CALL:

Present were Chairman Vlad Voytilla, Planning Commissioners Bob Barnard, Gary Bliss, Eric Johansen, Dan Maks, Shannon Pogue and Bill Young and Alternate Planning Commissioner Steven Olson.

Community Development Director Joe Grillo, Development Services Manager Steven Sparks, Principal Planner Hal Bergsma, Senior Planner Colin Cooper, Transportation Planner Don Gustafson, Associate Planner Tyler Ryerson, Associate Planner Sambo Kirkman, Associate Planner Liz Shotwell, Assistant Planner Leigh Crabtree, Assistant Planner Jeff Caines, Assistant City Attorney Ted Naemura and Recording Secretary Sandra Pearson represented staff.

The meeting was called to order by Chairman Voytilla, who presented the format for the meeting.

APPROVAL OF MINUTES:

Minutes of the meeting of November 28, 2001 were submitted. Commissioner Maks requested that line 42 of page 3 be amended, as follows:

“...emphasized that the shared parking is only official ~~of~~ **if** all property owners agree and sign.”

Commissioner Maks **MOVED** and Commissioner Johansen **SECONDED** a motion that the minutes be approved, as amended.

Motion **CARRIED**, unanimously, with the exception of Commissioners Pogue and Young, who abstained from voting on this issue.

Minutes of the meeting of December 5, 2001 were submitted. Commissioner Barnard **MOVED** and Commissioner Bliss **SECONDED** a motion that the minutes be approved as written.

Motion **CARRIED**, unanimously, with the exception of Commissioners Barnard, Pogue and Young, who abstained from voting on this issue.

Minutes of the meeting of December 19, 2001 were submitted. Commissioner Maks commended the Recording Secretary for her efforts on recording the minutes. Commissioner Maks **MOVED** and Commissioner Barnard **SECONDED** a motion that the minutes be approved as written.

Motion **CARRIED**, unanimously, with the exception of Commissioners Pogue and Young, who abstained from voting on this issue.

NEW BUSINESS:

Members of the Planning Commission in attendance introduced themselves, as follows:

?? Chairman Vlad Voytilla;
?? Commissioner Bob Barnard;
?? Commissioner Bill Young;
?? Alternate Commissioner Steve Olson;
?? Commissioner Eric Johansen;
?? Commissioner Gary Bliss;
?? Commissioner Dan Maks; and
?? Commissioner Shannon Pogue.

Members of staff in attendance introduced themselves, as follows:

?? Development Services Manager Steven Sparks;
?? Associate Planner Liz Shotwell;
?? Associate Planner Sambo Kirkman;
?? Associate Planner Tyler Ryerson;
?? Assistant City Attorney Ted Naemura;
?? Community Development Director Joe Grillo
?? Assistant Planner Leigh Crabtree;
?? Assistant Planner Jeff Caines;
?? Transportation Planner Don Gustafson;
?? Recording Secretary Sandra Pearson;
?? Principal Planner Hal Bergsma; and
?? Senior Planner Colin Cooper.

1 **WORK SESSION:**

2
3 **A. 2002 PLANNING SERVICES AND DEVELOPMENT SERVICES WORK**
4 **PLANS**

5
6 1. **Operational Changes in the Community Development**
7 **Department.**

8
9 Mr. Sparks mentioned that Development Services had moved back to
10 their renovated offices at City Hall after being dislocated for six
11 months due to a fire in June.

12
13 Mr. Sparks discussed new information available on the City of
14 Beaverton web site.

15
16 Commissioner Maks pointed out that he had received compliments on
17 the City's web page.

18
19 Pointing out that the City's goal is to provide more information on the
20 web site, Mr. Grillo noted that following several months of internal
21 shifting, the information available on the intranet would migrate to the
22 internet site.

23
24 Emphasizing that the Planning Commission is not a mythical body,
25 Mr. Sparks observed that he intends to provide a roster on the web
26 page.

27
28 Commissioner Barnard expressed his opinion that an unnecessary
29 amount of paper is generated.

30
31 Mr. Grillo described efforts on the part of staff to move quicker
32 internally, emphasizing that while staff recognizes objectives, they are
33 also aware of space limitations. Agreeing that an excessive amount of
34 paper is generated, he discussed the potential of scanning for storage
35 and retrieval purposes.

36
37 Commissioner Barnard suggested the possibility of providing all
38 Planning Commission materials through the e-mail system.

39
40 Mr. Sparks informed Commissioner Marks that most individuals
41 prefer to have a hard copy, adding that he anticipates that all of this
42 information would be provided digitally in the future, and that project
43 specifications would be provided in the form of a compact disc, rather
44 than the plans that are utilized at this time.

45
46

1 **2. Summary of Changes in State Statute.**

2 Mr. Sparks pointed out that it is necessary to provide more detailed
3 information on uses appropriate for Conditional Use Permits. He also
4 discussed Emergency Shelters and Youth Dances, specifically where
5 and how these uses are permitted and whether they should be allowed
6 as an accessory use to a church.

7
8 Commissioner Young questioned whether a list covering all potential
9 uses exists.

10
11 Mr. Sparks advised Commissioner Young that all uses must be
12 specifically identified.

13
14 Commissioner Johansen questioned whether a soup kitchen or a
15 homeless facility could be considered a conditional use.

16
17 Mr. Naemura mentioned that a fairly recent federal statute addresses
18 the use of property for religious uses, observing that while this statute
19 protects religion, there appears to be some serious constitutional flaws,
20 adding that some towns do not allow such use. He explained that
21 some of the problems regarding church homeless shelters involve
22 issues with Federal law versus State law.

23
24 Mr. Sparks clarified that the churches must identify the potential uses,
25 including the numbers in attendance and parking information.

26
27 Commissioner Maks expressed his opinion that the information
28 regarding uses, attendance and parking should not be difficult for a
29 church to obtain.

30
31 Mr. Sparks mentioned that another legislative action involving mobile
32 home parks has no real affect on the City of Beaverton, and explained
33 that this is due to the fact that there have been few applications relating
34 to this use. He pointed out that although it is possible to subdivide a
35 park, this has not had any effect in the past.

36
37 **3. Ex-Parte Contact/Conflict of Interest.**

38
39 Mr. Naemura provided a brief history of issues regarding a fair and
40 impartial hearing derived from the Fasano decision. He described Ex-
41 Parte Contact, emphasizing that no important knowledge should be
42 obtained prior to the hearing, no information is to be secret and that
43 this involves an open decision-making procedure.

44
45 Mr. Johansen questioned whether information obtained from a
46 newspaper should be disclosed.

1
2 Mr. Naemura advised Mr. Johansen that information obtained from a
3 newspaper should technically be disclosed, adding that it is
4 specifically necessary to disclose and allow for comments on any
5 information that might affect a decision.

6
7 Mr. Sparks questioned whether information obtained from web pages
8 should be disclosed.

9
10 Mr. Naemura informed Mr. Sparks that information from web pages
11 should be disclosed prior to a hearing.

12
13 Commissioner Maks expressed concern with disclosure issues,
14 specifically pointing out that while most applicants are aware of the
15 regulations, the average citizen is not. He pointed out that the public
16 should be educated on this issue. He emphasized that if there is any
17 doubt, it is necessary to declare or disclose information.

18
19 Noting that a decision-making body is not supposed to have personal
20 contact, Mr. Naemura pointed out that site visits are now considered a
21 pre-hearing contact.

22
23 Commissioner Maks explained that it is necessary to declare what had
24 been seen during a site visit.

25
26 Mr. Naemura discussed conflict of interest, noting that the specific
27 issues are based upon government standards and practices in the ORS.
28 Observing that conflict of interest and bias are often confused, he
29 emphasized that a conflict of interest involves money.

30
31 Mr. Naemura explained that there are also differences between an
32 actual and potential conflict of interest, noting that when recusing
33 oneself, a member of a decision-making body should step away from
34 the dais, although it is possible to participate in the process, without
35 actually participating in the decision. He further explained that while
36 it is allowed to discuss the issue with other members of the Planning
37 Commission, the individual Planning Commissioner must make the
38 decision of whether or not to participate on a decision.

39
40 Mr. Naemura defined a bias as a pre-judgment, emphasizing that the
41 appearance of a bias is not enough and that the bias must be actual, not
42 speculative.

43
44 Mr. Sparks suggested the possibility of all 7 members of the Planning
45 Commission having a bias towards a particular application.
46

1 Observing that the odds are against all 7 members of the Planning
2 Commission having a bias towards a particular application,
3 Commissioner Maks pointed out that it is necessary not to show bias.
4

5 Noting that 4 members of the Planning Commission constitutes a
6 quorum, Mr. Sparks questioned what should be done in the event that
7 2 members of this quorum recuse themselves from participating on a
8 particular decision.
9

10 Mr. Naemura discussed what he referred to as the "Rule of
11 Convenience", emphasizing that it is preferable to make a decision.
12

13 **4. Conduct of Hearings.**
14

15 Mr. Naemura discussed the sequence of events within a hearing,
16 emphasizing that the burden of proof to prove their case always rests
17 upon the applicant.
18

19 Mr. Grillo discussed the Rebuttal Argument, noting that although the
20 public is not always pleased, the applicant always has the opportunity
21 to get in the last word.
22

23 Alternate Commissioner Olson questioned how a Commissioner
24 should determine when to recuse himself or herself from participating
25 in a decision in the event of a bias or conflict of interest.
26

27 Mr. Naemura commented that members of the Planning Commission
28 would be queued at the appropriate time to recuse the member from
29 participating in a decision, emphasizing that recent updates to the
30 Development Code may include some revisions to the pre-hearing
31 announcements. He discussed hearsay, noting that the rules for
32 evidence have been relaxed to exclude what is irrelevant. He
33 emphasized that substantial evidence can be thin in the absence of
34 opposing evidence.
35

36 Commissioner Young discussed analyzing and evaluating an
37 application against existing standards.
38

39 Mr. Sparks emphasized that the City of Beaverton is not the
40 applicant's consultant.
41

42 Mr. Naemura discussed the potential for creating what he referred to as
43 a "Battle of the Experts", noting that while there can be obviously two
44 sides to every issue, it is necessary to determine who to believe and
45 make an appropriate decision.
46

1 Mr. Grillo mentioned that any decision-making body should not hear
2 testimony that is slanderous, irrelevant or derogatory.

3
4 Commissioner Maks pointed out that historically, slanderous,
5 irrelevant or derogatory testimony is not permitted.

6
7 Referring to testimony containing the phrases "I think" and "I
8 believe", Mr. Grillo emphasized that this testimony is less credible and
9 should be evaluated carefully. Noting that the land use system is not
10 terribly forgiving, he commented that such testimony would eventually
11 be scrutinized in any appeal process.

12
13 Commissioner Barnard observed that the public must be educated on
14 the inappropriateness of testimony including the phrases "I think" and
15 "I believe".

16
17 Commissioner Maks noted that it is necessary to determine whether
18 such testimony is substantial to begin with.

19
20 Mr. Naemura advised members of the Planning Commission that
21 under the new Development Code, they would be the final decision-
22 making body on certain applications.

23
24 Mr. Sparks mentioned that new findings must be determined in the
25 event that the Planning Commission does not agree with staff findings.

26
27 Mr. Naemura noted that it is necessary to articulate findings that are
28 not included within the Staff Report, observing that the motion-making
29 would change in order to provide a more complete and accurate record
30 of the facts.

31
32 Commissioner Young questioned whether a Planning Commissioner
33 also being a member of a particular Neighborhood Association creates
34 any issue.

35
36 Commissioner Maks advised Commissioner Young that a member of
37 the Planning Commission attends but does not participate in any
38 Neighborhood Association decisions that are in conflict with the
39 Planning Commission.

40
41 Mr. Naemura explained that ex-parte contacts are not an issue with
42 legislative, policy-setting matters.

43
44 Mr. Sparks noted that most Planning Commission applications are
45 quasi-judicial and project specific issues. On question, he explained
46 the different application types, as follows:

1 ?? Type 4 Legislative
2 ?? Type 1 No Discretion Involved
3 ?? Type 2 Administrative
4 Limited Discretion
5 Appeal Rights
6 ?? Type 3 Quasi-Judicial
7 Planning Commission and/or Board of Design
8 Review
9

10 **5. Overview of Upcoming Development Services Division Projects.**
11

12 Mr. Sparks commented that a review and summarization of the
13 changes to the Development Code and Comprehensive Plan would be
14 provided following a regular meeting, hopefully sometime in April
15 2002. He explained that although the Planning Commission is
16 currently addressing projects involving Beaverton High School, the
17 Board of Design Review is involved in the majority of the largest
18 projects within the City of Beaverton at this time.
19

20 Mr. Cooper mentioned that the Planning Commission would be
21 addressing issues involving institutional uses, the school district and
22 several subdivisions in the near future.
23

24 Mr. Ryerson pointed out that the Planning Commission would also be
25 addressing several street vacations.
26

27 Mr. Sparks mentioned that the Planning Services Division would be
28 involved in several rezones, adding that the Board of Design Review
29 would most likely be addressing several Development Code
30 amendments, one of which would pertain to the Sign Code.
31

32 Mr. Sparks observed that Transportation Planner Margaret Middleton
33 is working on the 2020 Transportation System Plan, and mentioned a
34 tentative Work Session with the Traffic Commission in March or April
35 of 2002.
36

37 **6. Overview of Upcoming Planning Services Division Projects.**
38

39 Mr. Bergsma discussed the recently distributed Comprehensive Plan,
40 and provided a brief presentation on issues and projects to be
41 implemented through this division during the year 2002. He described
42 plans for an update to the Beaverton School District Facilities Plan,
43 including efforts to resolve issues involving defining the service area
44 boundary between the Tualatin Hills Park and Recreation District
45 (THPRD) and the City of Hillsboro. He discussed involvement with

different committees and organizations, as well as projected growth in the area, including accommodations for this growth potential.

Mr. Bergsma discussed Clean Water Services and their Healthy Streams Plan, specifically the integration of their process with that of Metro for fish and wildlife habitat protection.

Mr. Bergsma discussed the 3-year schedule for complying with Metro's Affordable Housing Requirements, emphasizing that a certain amount of housing must be provided for individuals below the 50% median income level.

Mr. Bergsma described other new projects anticipated during the year 2002, including:

- ?? Adoption of rezones to be consistent with New Comprehensive Plan Map and Designations
- ?? Some Adoption of New Zones
- ?? Update of Urban Planning Area Agreement (UPAA) with Washington County
- ?? New Zones to Match the Washington Square Regional Center Plan Focusing on Zoning Regulations for the Creekside Industrial Area
- ?? 114th Avenue Area Redevelopment Plan (Transit Growth Management Funds)
- ?? Significant Scenic Resources (Trees) Inventory & Site Protection Programs

Mr. Bergsma also described staff's efforts at determining how to improve protection of tree resources within the City of Beaverton, including various procedures and methodologies. He mentioned that these resources have been separated into four categories, as follows:

- ?? Individual Trees
- ?? Tree Groves
- ?? Neighborhood Groves
- ?? Tree Corridors

adding that there will be open houses involving both the property owners and the public.

7. Planning Commission Concerns and Issues.

Mr. Sparks questioned whether any members of the Planning Commission would like to address issues and concerns that have not been discussed.

1 Commissioner Maks mentioned that he would like to see a
2 telecommunications ordinance implemented in the City of Beaverton.

3
4 Chairman Voytilla noted that he has concerns with issues involving the
5 tree inventory, churches and parking.

6
7 Referring to the current Development Code Update, Commissioner
8 Maks mentioned that he would like to address other code issues at a
9 future Work Session.

10
11 Observing that he sometimes has difficulty locating the map,
12 Commissioner Johansen requested that the Vicinity Map be relocated
13 to the front of future Staff Reports.

14
15 Chairman Voytilla expressed concern with duplication within Staff
16 Reports.

17
18 Mr. Ryerson suggested that it is not necessary for the Planning
19 Commission to receive copies of all of the exhibits provided in the
20 Staff Reports.

21
22 Mr. Naemura emphasized that it is necessary for the designated record
23 to be known by all participants.

24
25 On question, Chairman Voytilla advised Mr. Cooper that the 11" x 17"
26 copies of plans are generally adequate,

27
28 Emphasizing that the plans must be legible, Commissioner Barnard
29 requested the implementation of a clear format and standard order
30 within the Staff Reports.

31
32 Expressing his agreement with Commissioner Barnard, Commissioner
33 Maks pointed out that stapling the Staff Reports actually makes it
34 more difficult for the Commissioners to review the materials.

35
36 Mr. Sparks assured Commissioner Maks that the Staff Reports would
37 no longer be stapled.

38
39 Mr. Sparks questioned how the Planning Commissioners would prefer
40 to be seated on the dais.

41
42 Commissioner Maks informed Mr. Sparks that it is up to the Chairman
43 to determine the seating arrangement.

44
45 Observing that Mayor Drake had requested an additional Public
46 Hearing on the Development Code Update project, Mr. Sparks

1 mentioned that this has been scheduled for February 20, 2002, and is
2 limited to certain topics, as follows:

3
4 ?? Chapter 50

5 ?? Chapter 10
6

7 adding that Chapter 90 would remain open, for the purpose of adding
8 definitions necessitated by potential revisions to Chapter 50 and
9 Chapter 10.

10
11 Mr. Sparks mentioned that the City Attorney would also like to
12 attempt to create a new position, which he referred to as "Hearings
13 Officer".
14

15 Observing that he would like to resolve some issues, such as portable
16 classrooms, at next week's hearing on January 23, 2002, Mr. Sparks
17 pointed out that while correspondence would be accepted, no oral
18 testimony would be accepted at that time. Emphasizing that the
19 Development Code would be the only issue on the agenda at that time,
20 he clarified that testimony regarding Chapter 10, Chapter 50 and
21 Chapter 90 would be accepted at the hearing on February 20, 2002.
22

23 **MISCELLANEOUS BUSINESS:**
24

25 Mr. Grillo expressed appreciation to members of the Planning Commission for
26 their time and efforts on behalf of the City of Beaverton.

27
28 The meeting adjourned at 9:25 p.m.